

ORDINANCE NO. 2013-36

ORDINANCE REZONING FROM M-1 (INDUSTRIAL DISTRICT) TO R-3-3 (MULTIPLE FAMILY DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW 225 PARKING SPACES, WHERE 228 PARKING SPACES ARE REQUIRED, AND TO ALLOW A PERVIOUS AREA OF 28%, WHERE A MINIMUM 30% LAWN (PERVIOUS) AREA IS REQUIRED, CONTRA TO HIALEAH CODE §§ 98-2189(19) AND 98-2233. **PROPERTY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION BETWEEN N.W. 92 AVENUE AND WEST 80 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Property is subject to the terms of an Easement and Operating Agreement recorded in the Public Records of Miami-Dade County, Florida at Public Records Book 23140, at Pages 1669-1689;

WHEREAS, the proposed development of the site including the variances requested can only be accomplished in accordance with the Easement and Operating Agreement or as may be agreed to by the parties to said Easement; and

WHEREAS, the Planning and Zoning Board at its meeting of May 8, 2013, recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing findings, which are expressly set forth herein in their entirety, are hereby adopted and made a part hereof.

Section 2: The below-described property is hereby rezoned from M-1 (Industrial District) to R-3-3 (Multiple Family District) and is hereby granted a variance permit to allow 225 parking spaces, where 228 parking spaces are required, and to allow a lawn area of 28%, where a minimum lawn (pervious) area of 30% is required, contra to Hialeah Code §§ 98-2189(19) and 98-2233, which provide respectively in pertinent part: “(19) *Residential developments... (b) Medium and high density.* Two parking spaces for one or two bedrooms, and one-half parking space for each additional bedroom.” and “The City Council, by ordinance, may waive the minimum landscaping requirements of the Miami-Dade County Landscape Manual” as modified and supplemented by the city landscape manual which provides at Table A at (E) Tree and lawn requirements by zoning classification, that a minimum 30% lawn area (pervious) shall be provided for properties classified as R-3-D.” Property located at the northwest corner of the intersection of N.W. 92 Avenue and West 80 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

See Attached “Exhibit A”

Section 3: **Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: **Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall

occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 28 day of May, 2013.


Isis Garcia-Martinez
Council President


Attest:

Approved on this 31 day of may, 2013.


Marbelys Fatjo, Acting City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-1 vote with Councilmembers, Caragol, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes", Councilmember Casals-Munoz, voting "No."

**This is corrected Ordinance No 2013-36
A scrivener's error was reported
at the City Council meeting of August 27, 2013.**

Exhibit A

LEGAL DESCRIPTION:

PARCEL H

A portion of Tract 11, of "CHAMBERS LAND" COMPANY SUBDIVISION", of the NW 1/4 of Section 28, Township 52 South, Range 40 East, according to the Plat thereof, as recorded in Plat Book 2 at Page 68 of the Public Records of Miami-Dade County, Florida, LESS that portion lying within the North 130.00 feet of the NW 1/4 of the NW 1/4 of said Section 28, dedicated for right of way for State Road No. 93 (I-75) and shown on sheet 4 of 9 of Right-of-Way map, Section 87075-2401 by State of Florida Department of Transportation, more particularly described as follows:

Commence at the Northwest corner of Section 28, Township 52 South, Range 40 East; thence North 89 degrees 38 minutes 18 seconds East, along the North line of said Section 18, for 989.26 feet; thence South 02 degrees 34 minutes 25 seconds East, along the West Boundary line of said Tract 11 for a distance of 742.71 feet to the Point of Beginning; thence North 87 degrees 25 minutes 35 seconds East for a distance of 329.50 feet to the East Boundary line of said Tract 11; thence South 02 degrees 34 minutes 22 seconds East along said East Boundary line of Tract 11 for a distance of 184.00 feet; thence South 87 degrees 25 minutes 35 seconds West for a distance of 329.50 feet to the West Boundary line of Tract 11, thence North 02 degrees 34 minutes 25 seconds West along said West Boundary line of said Tract 11 for a distance of 184.08 feet, to the Point of Beginning.

PARCEL I

A portion of Tract 11, of "CHAMBERS LAND" COMPANY SUBDIVISION" of the NW 1/4 of Section 28, Township 52 South, Range 40 East, according to the Plat thereof, as recorded in Plat Book 2, at Page 68, of the Public Records of Miami-Dade County, Florida, LESS that portion lying within the North 130.00 feet of the NW 1/4 of the NW 1/4 of said Section 28, dedicated for right of way for State Road No. 93 (I-75), and shown on sheet 4 of 9 of Right-of-Way map, Section 87075-2401 by State of Florida Department of Transportation; more particularly described as follows:

Commence at the Northwest corner of Section 28, Township 52 South, Range 40 East; thence North 89 degrees 38 minutes 18 seconds East, along the North line of said Section 18, for 989.26 feet; thence South 02 degrees 34 minutes 25 seconds East along the West Boundary line of said Tract 11 for a distance of 926.71 feet to the Point of Beginning; thence North 87 degrees 25 minutes 35 seconds East for a distance of 329.50 feet to the East Boundary line of said Tract 11; thence South 02 degrees 34 minutes 22 East along said East boundary line of Tract 11, a distance of 190.00 feet; thence South 87 degrees 25 minutes 35 seconds West for a distance of 329.50 feet to the West boundary line of Tract 11; thence North 02 degrees 34 minutes 25 seconds West along said West Boundary line for a distance of 190.00 feet, to the Point of Beginning.

PARCEL J

A portion of Tract 11, of "CHAMBERS LAND" COMPANY SUBDIVISION", of the NW 1/4 of Section 28, Township 52 South, Range 40 East, according to the Plat thereof, as recorded in Plat Book 2, at Page 68, of the Public Records of Miami-Dade County, Florida, LESS that portion lying within the North 130.00 feet of the NW 1/4 of the NW 1/4 of said Section 28, dedicated for right of way for State Road No. 93 (I-75), and shown on sheet 4 of 9 of Right-of-Way map, Section 87075-2401 by State of Florida Department of Transportation; more particularly described as follows:

Commence at the Northwest corner of Section 28, Township 52 South, Range 40 East; thence North 89 degrees 38 minutes 18 seconds East, along the North line of said Section 18, for 989.26 feet; thence South 02 degrees 34 minutes 25 seconds East along the West Boundary line of said Tract 11 for a distance of 1116.71 feet to the Point of Beginning; thence North 87 degrees 25 minutes 35 seconds East for a distance of 329.50 feet to the East Boundary line of Tract 11, thence South 02 degrees 34 minutes 22 seconds East along said East Boundary line of Tract 11 for a distance of 180.97 feet, thence South 89 degrees 36 minutes 48 Seconds West for a distance of 329.73 feet to the West Boundary line of Tract 11, thence North 02 degrees 34 minutes 25 seconds West along said West Boundary line of Tract 11 for a distance of 168.39 feet to the Point of Beginning